

## PUBLIC SAFETY COMMITTEE

DATE: June 15, 2011

CALLED TO ORDER: 5:33 p.m.

ADJOURNED: 6:09 p.m.

### ATTENDANCE

#### Attending Members

Benjamin Hunter, Chair  
Vernon Brown  
Aaron Freeman  
Mary Moriarty Adams  
William Oliver  
Christine Scales  
Ryan Vaughn

#### Absent Members

Marilyn Pfisterer

### AGENDA

PROPOSAL NO. 158, 2011 - appoints Maggie Lewis to the Early Intervention Planning Council  
"Do Pass" Vote: 7-0

PROPOSAL NO. 299, 2010 - amends the Code to add a new Chapter 986 to establish standards for security companies doing business in Marion County, including licensing by the Office of Finance and Management to include criminal background checks and experience requirements  
"Do Pass as Amended" Vote: 6-1

PROPOSAL NO. 84, 2011 - amends certain provisions of the current merit system respecting the Indianapolis Metropolitan Police Department and the Indianapolis Fire Department  
"Postpone" until June 29, 2011 Vote: 7-0

## PUBLIC SAFETY COMMITTEE

The Public Safety Committee of the City-County Council met on Wednesday, June 15, 2011. Chair Benjamin Hunter called the meeting to order at 5:33 p.m. with the following members present: Vernon Brown, Aaron Freeman, Mary Moriarty Adams, William Oliver, Christine Scales and Ryan Vaughn. Absent was Marilyn Pfisterer. Representing Council staff was Robert Elrod, General Counsel.

Chair Hunter asked all members to introduce themselves and state which district they represent.

PROPOSAL NO. 158, 2011 - appoints Maggie Lewis to the Early Intervention Planning Council

Chair Hunter said that Councillor Pfisterer wholeheartedly endorses and supports Councillor Lewis' appointment to this board. He said that both Councillors have had a long history with the Planning Council.

Councillor Vaughn moved, seconded by Councillor Brown, to forward Proposal No. 158, 2011 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 7-0.

PROPOSAL NO. 299, 2010 - amends the Code to add a new Chapter 986 to establish standards for security companies doing business in Marion County, including licensing by the Office of Finance and Management to include criminal background checks and experience requirements

Chair Hunter said that the digest is incorrect, and he did speak to Councillor Joanne Sanders, but he asked Councillor Vaughn to explain her request.

Councillor Vaughn said that he talked to Councillor Sanders, who has been working on a proposed amendment with Councillor Jack Sandlin. He said they both wanted the amendment to be available tonight, but they are both out of town. He said he believes they relatively agree on the amendment language, and Councillor Sanders asked that the proposal be passed to the full Council, with amendments offered on the floor by Councillor Sandlin.

Councillor Moriarty Adams moved, seconded by Councillor Oliver, to forward Proposal No. 299, 2010 to the full Council with a "Do Pass as Amended" recommendation. The motion carried by a vote of 6-1, with Councillor Freeman casting the negative vote.

PROPOSAL NO. 84, 2011 - amends certain provisions of the current merit system respecting the Indianapolis Metropolitan Police Department and the Indianapolis Fire Department

Councillor Brown said that this proposal expands the Merit Board, making it compliant with State Code. He said it also makes some changes to the hiring and promotional processes in the police and fire departments. He said this proposal is non-political and Councillor Vaughn has tremendously helped with some of the language. He said some concerns were expressed from the Indianapolis Professional Firefighters Union Local 416, and he agrees with their suggested changes. Councillor Brown said he has also heard that some Councillors have concerns and questions about the proposal, but he has not been approached by anyone; although he has expressed his willingness to work with any Councillor on the

process. He said that this proposal was going to be amended on the Council floor, but they decided not to do so, and he thought that other amendments would be offered today.

Councillor Brown said that the fire union suggested removing the language “shall belong to the same political party” in Section 252-201 (a)(4), because they elect their membership, and political party is not a factor in that election process. He said, with respect to Section 252-202 (4) (c) (i), his intent was to give people who live in Marion County or have five years of contiguous residency status points in the application process, because they have a commitment and ties to the community and because they are familiar with the community. He said Bruce Henry, Human Resources (HR) Director, and his consultants decided to do an applicant candidate profile that included some things that they felt would be good qualities (as listed in this section). The fire union feels that a few things should be added and removed from this list, including:

- Striking the certification from the National Fire Academy, as very few civilians go to the Academy, because it is for incumbent firefighters.
- Striking the five years creditable service.

Councillor Brown said that Chair Hunter suggested, and he agrees, that instead of striking these things completely, maybe they can be included elsewhere. Councillor Brown said that he proposes that language be added in this particular section saying that the final candidate profile could be expanded based upon the recommendations of the department and the consultant, and signed off on or approved by the respective merit board. He said the promotional process changes depending on what the consultant and the Merit Board indicate are the needs of the department. He said they have several firefighters that speak and write Spanish fluently, because they are Hispanic, but they do not get credit. This is not fair, when a certified bi-lingual translator can receive credit.

Councillor Vaughn asked if Councillor Brown wants to amend Sec. 252-202 (4)(c) to state that the applicant candidate profile “may include, but is not limited to,” and then list some of the criteria. Councillor Brown answered in the affirmative. Councillor Vaughn asked if he then wants it to state that the Merit Board will make the final decision as to what criteria will be used to give someone preference. Councillor Brown answered in the affirmative.

Councillor Brown said the fire union also suggested that instead of giving a maximum of five points, they should give the points in percentage form, with a maximum of five percent. He said that it has historically been a 100-point process, but that could change. Councillor Brown said that this is simple language change and could be offered on the Council floor if everyone is in agreement.

Councillor Vaughn asked Bill Owensby, President, Fraternal Order of Police (FOP), if changing the number of maximum points from five to five percent makes sense on the police merit side as well. Mr. Owensby said that this is more of a question for Mr. Henry in HR.

Ron Kautsky, Vice President, Local 416, said that Councillor Brown hit on most of their concerns, which are technical in nature. He said that tracking the maximum points in percentage form keeps it more in-line with the merit process. He said they do not have a problem with listing the other things, such as residency and language, as additional criteria outside of the initial preferences, but those things would be up to HR and the Merit Board.

Councillor Oliver said that there is some consistency in the language with respect to residency, as this is done in many aspects and areas. He said incentives are often offered to those who live in a community because they bear the burden of supporting the structures in that community. For example, students are given tax breaks or tuition credits for attending a college or university in their home state. He said he hopes this proposal is supported in totality.

Councillor Scales said that this proposal has evolved quite a bit since it was first introduced. She said she spoke with some stakeholders that she thought would be impacted by this proposal, such as the Local 416 and the FOP. The impression that she has received was that most of those stakeholders do not feel that the system is broken or needs to be changed. She said that she is not sure if she could vote for it since there does not seem to be a significant need for the change. Councillor Brown said that he has had many conversations with some of the firefighters and they seem to be okay with the ordinance, and he has not gotten any opposition. He said that most of the concern that he has received has been from other Councillors.

Councillor Moriarty Adams asked if the current ordinance is in compliance with the State Statute. Councillor Brown answered in the negative. Councillor Vaughn said that this is unclear, as state law requires that the FOP and the local have a third of the votes, which is not currently the case. He said they are not sure how the City got to this point and if the City is legal, based upon how it reached this status. He said Mr. Elrod has done some research on the issue, and in essence there was a statute that stated that a city could adopt a merit board that looked like "a" or it could re-adopt the current merit board that looks like "b" by a certain date. Marion County adopted its current merit board, and over the course of time, the City sought to amend the configuration of that Merit Board. He said there was then a question of whether or not "b" had been amended so much that that the City was in violation of it, and were now required to adopt "a." Simultaneously, there was legislation that stated that the City "shall" amend the board, so that the locals have a third of the vote. Councillor Vaughn said that he, Councillor Brown, Mr. Elrod and others discussed this, and have determined that they will likely not know with certainty which one is legal until there is some sort of suit, binding opinion or clarifying legislation.

Councillor Moriarty Adams asked if the Council is close to being in compliance. Councillor Vaughn answered that this proposal would bring the City closer to being in compliance, because it clearly meets the definition of the locals having a third of the vote. He said another issue that has not been discussed in committee is whether or not the locals are compelled to ratify the proposal by their own vote. Mr. Elrod said that the original statute said that a city could either go under the statutory system or keep the one they had, and Indianapolis kept the one they had. When the City attempted to expand it, the Attorney General's Office and a court case concluded that if the City kept the old one, it could not be changed. He said then some changes were made, and it is questionable as to whether the City had the authority to do so. Mr. Elrod said with the police merger, a new merit system was adopted that is not anywhere close to any of the others. He said the statute states that if the City adopts a new system, it has to be the statutory system, which is not like anything the City has ever had. In addition, it states that if a new system is adopted, the departments have a right to have a referendum on that new system. Therefore, if this is merely a correction of keeping the historical system, which the City is permitted to do, then the City is okay. If not, it most likely has to go to the referendum of the departments. Mr. Elrod said that the good thing with this proposal is that it keeps the current boards in place until December 31, 2011. Therefore, if it passes, and there is opposition, those people have six months to question the legality of the new system before the boards change.

Councillor Vaughn said they do not have the amendment in draft form tonight, and the Public Safety Director has quite a bit of technical changes to suggest. He apologized to Councillor Brown for not discussing some of these issues with him, and said that he thinks it makes sense to incorporate the changes in an amendment to be entertained in committee. He said it may also make sense to include that it takes effect upon ratification of the locals. This would avoid the legal question altogether.

Councillor Scales asked Councillor Brown how he feels about this. Councillor Brown answered that he does not have any issues with this. He said that he has not seen any proposed changes by the Public Safety Director and he has also been told that the attorney for Mayor Greg Ballard would like to speak with him, but he has not heard from him either. He said he would be happy to speak with anyone about the proposal. He said with respect to the ratification, he and some of the fire union people do not feel that it is necessary. Councillor Vaughn said that it is a possibility that it is not necessary, but his thought was that it would be easier to put in the stipulation as opposed to having someone in the Court of Appeals make the decision.

Councillor Vaughn moved, seconded by Councillor Brown, to "Postpone" Proposal No. 84, 2011 until June 29, 2011. Councillor Brown asked that if there are any persons that have questions about the proposal, that they please contact one of the five sponsors of the proposal. The motion to postpone carried by a vote of 7-0.

With no further business pending, and upon motion duly made, the Public Safety Committee of the City-County Council was adjourned at 6:09 p.m.

Respectfully submitted,

Benjamin Hunter, Chair  
Public Safety Committee

BH/nsd